

March 29, 2007

**MINUTES OF A REGULAR MEETING
OF THE COUNCIL COMPENSATION
AND CHARTER STUDY COMMITTEE**

1. CALL TO ORDER

The Council Compensation and Charter Study Committee convened in a regular meeting at 7:00 p.m. on March 29, 2007, in the 3rd Floor Assembly Room.

2. ROLL CALL

Present: Members Bailey, Busch, Fitch, Fox, Lee, Messerlian, Rische, Sargent, and Shwarts

Absent: Skoll

Also Present: Assistant to the City Manager Chaparyan
Deputy City Attorney Strader
City Clerk Herbers
City Treasurer Barnett

3. REPORT OF STAFF ON THE POSTING OF THE AGENDA

Assistant to the City Manager Chaparyan reported that the affidavit had been posted.

4. APPROVAL OF MINUTES – March 15, 2007

Member Fitch stated that her comments on Page 2, paragraph 4, should read “50%”, not “5%”

She also stated that she was of the understanding that the Committee directed staff to further look into the legality of establishing a Consumer Price Index (CPI) provision to provide annual increases in compensation tied to the CPI, but that direction is not noted in the minutes. Chairperson Lee shared that to his recollection formal direction was not given but can be done at tonight’s meeting.

MOTION: Member Sargent, seconded by Member Shwarts, moved for the approval of the March 15, 2007 Council Compensation and Charter Study Committee minutes as amended; hearing no objection, Chairperson Lee so ordered.

5. DISCUSSION ITEMS

1. Draft report on City Council provisions for compensation

Assistant to the City Manager Chaparyan indicated that a draft report has been distributed to each Committee member. He asked that any comments be forwarded to his attention.

Council Compensation and
Charter Study Committee
March 29, 2007

2. Changing the City Clerk position from elected to appointed

City Clerk Herbers strongly recommended that the position of City Clerk be changed from an elected to an appointed position. She suggested that the position be appointed by the City Council, report to the City Council and have a salary commensurate to the duties prescribed. She stated that there is an increasing emphasis on City Clerk as a career and that she has met many professionals who have taken the challenge of continuing to learn the “art” of being a City Clerk.

City Clerk Herbers explained that the position is administrative and unique, as it serves as a hub that brings together information from city employees and connects with its citizens and other users of city services. The position requires an individual to be both knowledgeable and comfortable with the utilization of technology (i.e. computers, electronic files) to facilitate the dissemination of information to staff and the public alike. Relaying that she has adapted a position description from a qualified company that specializes in human resources issues, City Clerk Herbers explained that in addition to the core duties and responsibilities assigned to the position and the “other duties as assigned...” per the Torrance Charter, an experienced professional clerk:

- Will be able to come in knowing the basic functions set out in the Government Code and have only to learn the “Torrance way” of doing business;
- Will have the ability to handle the details of working in a non partisan way for the council and candidates for public office;
- Will be familiar with technologies used in the field and ready to continue or refine the work.

City Clerk Herbers relayed that she served on the city-appointed committee that initially broached this issue back in 1991. As a committee member she agreed with the committee that the position be appointed. She stated that she voted with the majority of the electorate that kept the City Clerk position an “elected” position, she has now come to realize that the position has evolved into a “career”. She believes that the current elected City Clerk process may actually be doing a disserve to the City of Torrance, as the learning curve takes serious time to overcome on many levels. She touched on some of her experiences of the past thirteen years, by acknowledging that it took her at least 3 years to truly understand and comprehend all the duties and responsibilities expected of the City Clerk, which she accomplished solely through on-the-job training.

City Clerk Herbers also talked of the line between the clerk as an elected official and as the department head. She explained that as elected officials are not an integral part of the overall planning that occurs in the administration, the elected City Clerk interacts infrequently with the entire management staff. Contacts are made through other channels which service to make it fragmented at best.

City Clerk Herbers concluded by stating that an appointed City Clerk, one styled similar to the position of City Attorney would allow the appointee to better interact in the decision making processes, and utilize his/her knowledge to formulate a much more cohesive picture to present to the public.

Member Busch thanked City Clerk Herbers for her frankness and input on the matter. He asked if she is aware of other cities that have changed from an elected to an

Council Compensation and
Charter Study Committee

appointed City Clerk, as well as her feelings on whether a City Clerk appointed by the City Council would take the “politics” out of the position.

City Clerk Herbers responded that she is aware of other cities that have changed from an elected to an appointed City Clerk. She stated that City Clerks are trained to work in a non-partisan capacity and are continually reminded that they are working for each member of the City Council.

In response to additional inquiries from the Committee, City Clerk Herbers clarified that if the City Clerk position was appointed by the City Council, it would not be Civil Service protected; that the City Attorney is considered part of the management team; that this is her final term as City Clerk; and that at this point in time she does not believe anyone from her staff would be able to fill the position. She stated that there are a number of qualified individuals who could perform the job if the position was appointed and did not carry a residency requirement.

Member Messerlian commented that City Clerk Herbers and City Treasurer Barnett have done outstanding jobs in their respective positions. During his eight years of City Council, he personally observed their tremendous work performance and has raised the level of professionalism of the positions to those other cities desire. Member Messerlian talked of the situation in Gardena whereby the clerk position was changed from a full time elected to a part time elected position. He explained that the elected City Clerk has a full time job elsewhere. The Chief Deputy City Clerk actually runs the day to day operations of the office at the direction of the City Manager, which takes away the independence of the position. He also talked on the issue of who should appoint and whether the position can retain its independence, questioning whether politics can be taken out completely, Member Messerlian suggested a 4/5 majority or unanimous vote be required if the position became an appointment,

Chairperson Lee spoke on the election history of City Clerk Herbers, noting that she ran a competitive race and won election. He explained that Ms. Herbers then went through a process of learning the job, performed well and was subsequently re-elected. Pointing out the process has worked well for the City and herself, he asked City Clerk Herbers how she counters the argument that an elected process doesn't work. Chairperson Lee also asked City Clerk Herbers her thoughts on someone from outside of Torrance understanding the uniqueness of Torrance and what the City is about.

City Clerk Herbers talked of the older technology and different types of records management methods that were in place when she took office, and the steps she implemented to bring the office up to date. She spoke on the vast responsibilities of the position coupled with today's growth in technology, which requires a qualified and capable professional to ensure the office is run effectively and efficiently. She shared that she does not come across many individuals who truly understand what a City Clerk does and what the job entails. City Clerk Herbers relayed that an appointed clerk would have the necessary qualifications versus an elected clerk that is voted in because the electorate thinks he/she would do a good job. An appointed clerk would already know what the job entailed; then learn how the City of Torrance specifically operates and what is expected by City Council. City Clerk Herbers reiterated that the City Clerk is a non partisan position and is responsible to ensure records are kept properly for future generations not just for the sitting City Council or administration.

Member Fitch explained that if the position was appointed, she assumes the City Council would use and consider certain criteria involving the job description, the candidates experience, demeanor, and ethics, and how that person would fit into the organization, etc. She pointed out that if the position is elected, anyone with varying experiences, background, ethics, can run and be elected through their voter appeal and the campaign process. She asked City Clerk Herbers if she thinks the City Council would make better use of the criteria versus the electorate.

City Clerk Herbers responded yes, reiterating that most people do not know what the City Clerk job entails.

3. Changing the City Treasurer from elected to appointed

City Treasurer Barnett stated that she has grappled with this issue for a number of years and is in favor of keeping the City Treasurer an elected position. She explained that she conducted a survey of those charter cities that have appointed treasurers and found that a vast majority of those cities have an appointed treasurer whose position has been combined with the Finance Director (Finance Director/Treasurer), creating a division with the Finance Department that handles the cash management and investments. City Treasurer Barnett voiced her concern to this type of mega department that initiates payment and has the authority to sign and issue checks; that creates a billing cycle and has to the authority to collect and receipt the cash; and initiates wire transfers and releases payment. She stated that this could open up the door for potential collusion when these functions are all housed within the same department, and more importantly, it neutralizes the fiduciary responsibility of a Treasurer.

City Treasurer Barnett expressed her opinion that the elected City Treasurer provides a check and balance mechanism for the City Council and departments. It's the responsibility of the Treasurer, as indicated in the Charter, to "receive and safely keep all moneys which shall come into his/her hands as City Treasurer." She explained that the City Treasurer is not exempt from following established rules, policies and procedures of the City, and touched base on the existing mechanisms (Elections/Recall, Budget Process, Investment Policy, External Audit, Civil Service Commission) by which the citizens of Torrance, the City Council or its appointed representative can exert control (checks and balances) on the elected City Treasurer.

City Treasurer Barnett commented that she cannot deny that at some point in the future, the City may end up with an elected Treasurer with performance problems, and that for this very reason a professionally trained civil service protected Deputy City Treasurer is in place to ensure continuity and stability to department functions. She suggested that the Charter could list additional criteria necessary to run for City Treasurer to lessen the possibility of an ill prepared candidate.

City Treasurer Barnett concluded by stating that over the last thirteen years, the City Treasurer's Office has put in place oversight, audit controls, policies and procedures to protect the City of Torrance from potential problems. It has worked and continues to work well. She stated her strong belief that that only way to guarantee complete separation of duties, strong check and balances and independent fiduciary responsibility is to retain an elected office.

In response to questions from Members Bailey and Fitch, City Treasurer Barnett stated that when a Treasurer function is combined under the Finance Department, the Treasurer's position becomes less independent and is neutralized because their functions are then dictated by the Finance Director. She further clarified that her research indicated that many, if not all, appointed Treasurers fall under the parameters of the Finance Department.

Responding to Member Fitch, City Clerk Herbers explained that she budgets for a general election every two years and that any special called elections are budgeted separately. She relayed that there hasn't been much money spent on measures during the last two years and the cost of elections can and do increase every year.

In response to Member Fox, City Treasurer Barnett shared that she holds a degree in Accounting, and worked for the City's Finance Department for a number of years before moving over to the Treasury side. She relayed that most of her colleagues come from an accounting, banking or financial background.

Noting the complexities and power of the position, Commissioner Shwartz voiced concern in a less than qualified candidate becoming elected.

City Treasurer Barnett explained that the Treasurer has prescribed duties per the Charter and can be assigned additional duties if assigned. She reiterated that a Deputy City Treasurer is also in place to ensure continuity and stability to the department.

Chairperson Lee also confirmed that the City Council can assign duties above and beyond those spelled out in the Charter. He commented that the job per say is simple in nature, but in cases where the treasurer has proven capable, like in Ms. Barnett's instance, the City Council can increase duties accordingly.

Member Fitch asked if Deputy City Attorney Strader could look into the legality of Charter cities including criteria for an elected City Treasurer position, adding that it is her hope that the City Council would use appropriate criteria for appointed positions, allowing ethic to rule.

Member Messerlian asked City Clerk Herbers if criteria would address some of her concerns if the clerk position remained elected. City Clerk Herbers responded that the pool of candidates would be very small.

4. Extending the term limits for City Council

No discussion or action was taken on this item.

5. a) Information and agenda for next meeting; b) Instruction to staff.

Chairperson Lee asked that each Committee member be prepared to present their recommendation at the next meeting, as to whether the City Clerk and City Treasurer positions should be changed from elected to appointed.

Chairperson Lee asked staff to forward information to Committee members on whether criteria can be included for the City Clerk and City Treasurer positions, and on the legality of establishing a Consumer Price Index (CPI) provision to provide annual increases in City Council compensation tied to the CPI.

Noting that the council compensation report will be finalized shortly, Chairperson Lee and Member Messerlian discussed whether the reports should be forwarded to the City Council when each issue is finalized or as one comprehensive report.

6. ORAL COMMUNICATIONS

Don Clouch, West 238th Street, commented that the system currently in place has provided the most competent City Clerk and City Treasurer in the South Bay, adding that if it is not broke, don't fix it.

7. ADJOURNMENT

At 8:27 p.m., the meeting was adjourned to Thursday, April 12, 2007 p.m., in the 3rd Floor Assembly Room.

Approved as Submitted April 12, 2007 s/ Sue Herbers, City Clerk
